

**FINAL FINDING OF NO SIGNIFICANT IMPACT
AND DECISION RECORD**

for

**EMBUDO AL CIELO (EAC) RIGHT-OF-WAY APPLICATION
NM-114194**

After reviewing the attached Environmental Assessment (EA) for the Embudo al Cielo Road Improvement Right-of-Way, I have determined that the proposed action, when implemented with the mitigation measures included in the EA and ongoing monitoring in the project area, would not have a significant impact on the human environment or to minority or low-income populations or communities. Based on an assessment of “No Affect” for federally listed species in Rio Arriba County, New Mexico, and no impacts to cultural resources, an Environmental Impact Statement is not required.

Sam DesGeorges
Taos Field Office Manager

Date

Summary of Proposal:

Embudo al Cielo LLC (EAC) has applied to the Bureau of Land Management (BLM) for a right-of-way to upgrade an existing two-track road, known as BLM Road 119, to provide access and buried utilities to their private property.

Susan and Kenneth Crawford purchased the property on May 31, 2001. The property is bordered on the east by public land extending to NM 75, and on the south by New Mexico State Land Office property, other public land, and private land, which has no public access. On the west, the property is bordered partially by public land and private land, which also has no public access. On the north, the property is bordered by private land extending to NM 68; however, no access exists across this property, which is very steep. The entire EAC property is located on a topographic feature called La Mesita, which is a mesa surrounded by a steep escarpment 500-feet high or more between the EAC property and the nearest roads. These features essentially land-lock the property, except for BLM Road 119, on which the right-of-way would be located.

The proposal includes improvements to the existing road, temporary construction easements along the road to accommodate drainage improvements, cut/fill slopes, a staging area for construction, and buried utilities within the road. A wider and better surfaced road is needed to safely provide access to the applicant's property.

Decision to Be Made: The BLM only has the authority to make decisions regarding lands and resources managed by the BLM. Therefore, the decision to be made by BLM is whether or not the BLM will (1) Issue a right-of-way to EAC; (2) Authorize the upgrading of the existing two-track road; (3) Authorize addition of buried utilities within the access road; and (4) Authorize the installation of a gate on public land to control vehicle access on the right-of-way. The decision will also address the location of and conditions under which these activities would be authorized.

The Environmental Assessment (EA) prepared for this project as required by the National Environmental Policy Act of 1969 (NEPA) provides the analytical basis for BLM to make a decision for BLM lands and resources.

Results of Public Review and Comment Period for Final Environmental Assessment (EA)

The EA was distributed for comment and review from July 1 to July 18, 2008. Three individuals submitted written comments to the EA. Several comments were similar and are summarized below:

- (1) Concerns with gated access at the bottom of the road and statement regarding vehicular access made on page 13 of the EA. Object to gate on BLM, closing off of access to public lands.
- (2) Concerns with drainage into the acequia below the improved road.
- (3) Would like to see easement from private landowners in place before construction begins.

- (4) Concerns with removal of trees and shrubs during construction.
- (5) Why only an EA?

Responses to comments

Response 1:

Access to the public lands will not be closed. It was determined that a gate would be installed on public land to limit access to motorized users, not non-vehicular users as stated in the EA (page 13). It is expected that the gate will NOT be placed at the bottom of the road but at a location that provides the best place for vehicles traveling the road to turn around. The location of the gate will be determined in the field by BLM prior to construction of the road. EAC has agreed to issue an access easement to the BLM for the continuation of a trail access across EAC property for use by the public, at no cost. The access easement would be for non-vehicular use only.

Response 2:

If as a result of road construction there are damages to the acequia, repairs to the acequia would be the responsibility of EAC. This will be a stipulation in the right-of-way grant.

Response 3:

EAC has agreed to issue an access easement to the BLM for continuation of a trail access across EAC property, for use by the public, at no cost. The access easement would be for non-motorized use only. EAC will provide BLM with a Letter of Intent for the access easement until such time as the permanent access easement can be processed.

Response 4:

It is expected that a minimal amount of trees and/or shrubs would be affected by construction. As discussed in the EA, mitigation measures for the proposed project include the replanting or reseedling of disturbed areas with an acceptable mix of certified weed free native plants typically found in the habitat.

Response 5:

Actions are analyzed in an environmental assessment (EA) if the actions are not categorically excluded, not covered in an existing environmental document, or not normally subject to an environmental impact statement (EIS). An EA analysis is used to determine if an action would have significant effects; if so, and the action cannot be mitigated, an EIS would need to be prepared.

Whether an action must be analyzed in an EA or EIS depends upon a determination of the significance of the effects. "Significance" is defined as effects of sufficient context and intensity that an environmental impact statement is required. As required under 40 CFR 1508.27, both context and intensity were considered for determining significance. As this is a site-specific action, the context is the locale, rather than the world as a whole. The intensity or severity of effects, as measured by direct, indirect or cumulative effects

of the proposed action and mitigation measures did not provide sufficient justification to complete an EIS.

Decision: It is my decision to select Alternative 4 (Preferred) – Gated Access and Modified Resource Road Improvements, for implementation. Therefore, BLM will (1) Issue a right-of-way to EAC to authorize the upgrading of the existing two-track road; (2) Authorize addition of buried utilities within the access road; (3) Authorize the installation of a gate on public land to control vehicular access on the right-of-way at a location to be determined in the field prior to construction; (4) Acquire an access easement for non-motorized use from EAC for use by the public.

Rationale for Decision: My decision to authorize these activities is based on the following rationale:

- This project is planned and designed to address current and future access needs for EAC.
- The activities within the selected alternative are in conformance with the Taos Resource Management Plan (1988) and BLM policy and guidance.
- The major resource issues identified through BLM interdisciplinary review have been addressed in the analysis and considered in the decision. Based on the analysis in the EA, the impacts of the activities to be authorized are not expected to be significant.
- There are no adverse impacts to federally listed threatened or endangered plant or animal species or to cultural resources.